

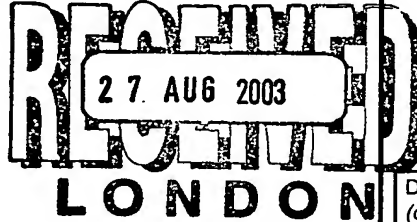
PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

W.P. THOMPSON & CO.
Attn. Smaggasgale, Gillian H.
55 Drury Lane
London WC2B 5SQ
UNITED KINGDOM



NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT
OR THE DECLARATION

(PCT Rule 44.1)

Applicant's or agent's file reference GHS/P503618WO	Date of mailing (day/month/year) 25/08/2003
International application No. PCT/GB 03/ 00939	FOR FURTHER ACTION See paragraphs 1 and 4 below International filing date (day/month/year) 06/03/2003
Applicant BACCHUS WINE CLOSURES LIMITED	

1. ☒ The applicant is hereby notified that the International Search Report has been established and is transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the International Application (see Rule 46):

When? The time limit for filing such amendments is normally 2 months from the date of transmittal of the International Search Report; however, for more details, see the notes on the accompanying sheet.

Where? Directly to the International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland
Facsimile No.: (41-22) 740.14.35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no International Search Report will be established and that the declaration under Article 17(2)(a) to that effect is transmitted herewith.

3. ☐ **With regard to the protest** against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.


☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Further action(s):** The applicant is reminded of the following:

Shortly after **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

Within **19 months** from the priority date, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later).

Within **20 months** from the priority date, the applicant must perform the prescribed acts for entry into the national phase before all designated Offices which have not been elected in the demand or in a later election within 19 months from the priority date or could not be elected because they are not bound by Chapter II.

Name and mailing address of the International Searching Authority  European Patent Office, P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	Authorized officer Maria Zinburgova
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These Notes are intended to give the basic instructions concerning the filing of amendments under article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the PCT Applicant's Guide, a publication of WIPO.

In these Notes, "Article", "Rule", and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions, respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only.

What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When?

Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

How?

Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

It must be in the language in which the international application is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments and any accompanying statement, under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the time of filing the amendments (and any statement) with the International Bureau, also file with the International Preliminary Examining Authority a copy of such amendments (and of any statement) and, where required, a translation of such amendments for the procedure before that Authority (see Rules 55.3(a) and 62.2, first sentence). For further information, see the Notes to the demand form (PCT/IPEA/401).

Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see Volume II of the PCT Applicant's Guide.

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY

(PCT Rule 71.1)

To:

Smaggasgale, Gillian H.
W.P. THOMPSON & CO.
55 Drury Lane
London WC2B 5SQ
GRANDE BRETAGNE

Date of mailing
(day/month/year)

07.07.2004

Applicant's or agent's file reference
GHSP/503618WO

IMPORTANT NOTIFICATION

International application No.
PCT/GB 03/00939

International filing date (day/month/year)
06.03.2003

Priority date (day/month/year)
06.03.2002

Applicant
BACCHUS WINE CLOSURES LIMITED et al.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international
preliminary examining authority:



European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523656 epmu d
Fax: +49 89 2399 - 4465

Authorized Officer

de Santiago Gomez, A

Tel. +49 89 2399-8224



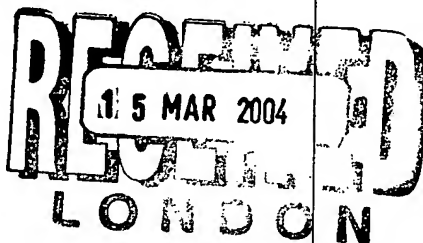
PATENT COOPERATION TREATY

Rec'd PCT/PTC 03 SEP 2004

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

Smaggasgale, Gillian H.
W.P. THOMPSON & CO.
55 Drury Lane
London WC2B 5SQ
GRANDE BRETAGNE



PCT

WRITTEN OPINION
(PCT Rule 66)

Applicant's or agent's file reference GHSP503618WO		Date of mailing (day/month/year) 09.03.2004	
International application No. PCT/GB 03/00939		REPLY DUE within 3 month(s) from the above date of mailing	
International filing date (day/month/year) 06.03.2003	Priority date (day/month/year) 06.03.2002	International Patent Classification (IPC) or both national classification and IPC B65D39/00	
Applicant BACCHUS WINE CLOSURES LIMITED et al.		ENTERED BY AOC DUE DATE 9/6/04	

1. This written opinion is the **third** drawn up by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☒ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application
3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4.
 For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
 For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: **06.07.2004**

Name and mailing address of the international preliminary examining authority: European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Janosch, J Formalities officer (incl. extension of time limits) Siedsma, Y Telephone No. +49 89 2399-7242
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I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-13 as originally filed

Claims, Numbers

1-43 as originally filed

Drawings, Sheets

1 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

6. Additional observations, if necessary:

IV. Lack of unity of invention

1. In response to the invitation (Form PCT/IPEA/405) to restrict or pay additional fees, the applicant has:

- ☐ restricted the claims.
- ☐ paid additional fees.
- ☐ paid additional fees under protest.
- ☒ neither restricted nor paid additional fees.

2. ☐ This Authority found that the requirement of unity of invention is not complied with for the following reasons and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees:

3. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this opinion:

- ☐ all parts.
- ☒ the parts relating to claims Nos. 1-40 .

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1,6-9,11,12: no; 2-5,10,13-29: yes
Inventive step (IS)	Claims	2-5,10: no; 13-29: yes
Industrial applicability (IA)	Claims	1-40: yes

2. Citations and explanations

see separate sheet

Re Item IV

Lack of unity of invention

1. The applicant was invited to restrict his application or alternatively to pay additional examination fees. Since the applicant did not respond to this invitation the first invention defined in claims 1-40 is the subject of examination by the Examination Authority, as indicated in the invitation to restrict or pay additional fees.

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:

D1: DE 42 25 092 A (KESSLER REINHARD) 4 February 1993 (1993-02-04),
D2: DE 39 40 461 A (PFEFFERKORN & CO) 13 June 1991 (1991-06-13),
D3: US-A-5 527 580 (AOKI YOSHIHIDE ET AL) 18 June 1996 (1996-06-18),
D4: FR-A-1 022 562 (MAZZONI LUCIEN) 6 March 1953 (1953-03-06),
D5: WO 00 64647 A (VINPAC INTERNAT PTY LTD ;MA ROSALIND (AU);
WILKS TERRY (AU); BRITC) 2 November 2000 (2000-11-02) and
D6: WO 00 64649 A (VINPAC INTERNAT PTY LTD ;MA ROSALIND (AU);
WILKS TERRY (AU); BRITC) 2 November 2000 (2000-11-02).

- 2.1 The document D1 is regarded as being the closest prior art to the subject-matter of claim 1, and shows (cf. claims 1-3; column 2, lines 28-44; the references in parentheses applying to this document):

A stopper comprising a barrier layer (4) which comprises a hot melt polymeric adhesive.

The hot melt polymeric adhesive in D1 is realised by a polyethylene layer on the upper and lower side of the barrier layer. The subject-matter of claim 1 therefore is not novel (Article 33(2) PCT).

The subject-matter of claim 1 is also not novel in view of D2 (cf. column 2, lines 43-53; figures 1 and 5), in view of D3 (cf. claim 1; column 3, lines 13 - 28), in view of D4 (cf. claim 1; page 2, left column, lines 3-33), in view of D5 (cf. page 2, last paragraph; page 11, lines 1-3) and in view of D6 (cf. page 2, last paragraph; page 8, lines 19-21).

- 2.2 The additional features of claims 2-5 are suggested (Art. 33(3) PCT) by D1 (cf. claim 4; column 2, line 61 - column 3, line 4). Since D1 discloses a controlled permeability of the barrier layer by providing through holes through the barrier layer every permeability can be realised.
- 2.3 Document D1 (cf. column 2, lines 38-40) discloses that the barrier layer has a thickness of from 10 to 30 microns (from 0,01 mm to 0,03 mm). Thus the subject-matters of claims 6-8 are not novel (Article 33(2) PCT).
- 2.4 The alternative of claim 9 that the hot melt polymeric adhesive is a hot melt polyolefin adhesive is disclosed (Art. 33(2) PCT) in D1 (cf. claims 2 and 3; column 2, lines 28-31 and lines 41-44), since polyethylene is a polyolefin. The alternative that the hot melt polymeric adhesive is a hot melt polyurethane adhesive is disclosed (Art. 33(2) PCT) in D5 (cf. claims 6 and 7; page 9, lines 1-18).
- 2.5 The use of an aliphatic polyurethane does not seem to be based on an inventive step (Art. 33(3) PCT).
- 2.5 The additional features of claim 11 are disclosed (Art. 33(2) PCT) in D1 (cf. claim 3), the additional features of claim 12 are disclosed (Art. 33(2) PCT) in D1 (cf. column 2, lines 41-44).
- 2.6 The additional features of claim 13 can not be suggested by the cited prior art. Thus claims 14-29, as far as they depend on claim 13 fulfill the requirements of article 33(2) and (3) PCT.
- 2.7 The subject-matter of claim 30 is not novel (Article 33(2) PCT), since the features are disclosed in D1 (cf. column 2, lines 41-44). Furthermore the document D2 (cf. column 2, lines 43-53) discloses all features of claim 30. Thus the subject-matter of claim 30 is also not novel (Article 33(2) PCT) in view of D2.

- 2.8 The alternative of claim 31 that the lower oxygen permeability material is a metal foil is known from D2 (cf. column 2, lines 46-49).
- 2.9 The alternative of claim 31 that the lower oxygen permeability material is a vacuum deposited metal cannot be suggested by the cited prior art. Thus claims 33-40, as far as they depend on this alternative of claim 31 fulfill the requirements of article 33(2) and (3) PCT.
- 2.10 The additional features of claim 32 are disclosed in D1 (cf. column 4, lines 23-27).
3. In claim 13 it is not clear what chemical substance PTFE might be (Art. 6 PCT).